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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,510	07/03/2003	Harrison G. Purvis	59851	4795
27975	7590	09/22/2005		
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791			EXAMINER NGUYEN, CHI Q	
			ART UNIT 3635	PAPER NUMBER

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/613,510	Applicant(s) PURVIS ET AL.	
	Examiner Chi Q. Nguyen	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input checked="" type="checkbox"/> Other: <u>attachment</u> . |

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DETAILED ACTION

This Office action is in response to the Applicant's application filed on 7/3/2003.

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show dick member bracket 58 as described in the specification on page 9, line 25. And also, the first segment shown on figure 2 should be 34 and the second segment should be 36. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: on page 8, lines 13-14, the post receiver should be described as 38 not 32.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-18, and 35-45 are rejected under 35 U.S.C. 102(b) as being anticipated by Lewis (US 5,570,559).

In regard claim 1, Lewis teaches safety guardrail or fall arrestor comprising a plurality of end post supports each comprising a U-shaped body with a base 50/52, two arms 40, 112(see figure 5). The U-shaped body having a first segment 40 for removably fastening to an end of a respective pitched roof member and having a second segment 50 extending outwardly with a gap there between two arms, a post receiver 74 connected to an upper end of the second segment of the body, and a stabilizer 80 carried by the body, a respective post 26 carried by the post receiver 74 of each end post support, and rail members 28 connected between adjacent posts (see figs. 1-5).

In regard claim 2, Lewis teaches the claimed invention as stated, wherein the first segment of the body has a plurality of openings therein 44 (see fig. 2).

In regard claim 3, Lewis teaches the claimed invention as stated, wherein said stabilizer comprises an elongate stabilizer member 80 connected to the body (see fig. 2).

In regard claim 4, Lewis teaches the claimed invention as stated, wherein a bolt 96 serves as a transverse stabilizer member connected to an end of said elongate stabilizer member 80 (see fig. 2).

In regard claim 5, Lewis teaches the claimed invention as stated, wherein further comprising a kick member bracket 60 carried by the upper end of the second segment of the body (see fig. 3).

In regard claim 6, Lewis teaches the claimed invention as stated, wherein the other side of the roof structure constitutes the similar structures as claimed in claim 1: a plurality of gable post supports 30, each comprising a body having a first end 40, a post receiver 74, a respective post 26 carried by the post receiver 74 of each gable post support; rail members 28 connected between adjacent posts.

In regard claim 7, Lewis teaches the claimed invention as stated, wherein the body comprises a gable plate (where 30 points to) and an elongate gable member 40 extending outwardly from said gable plate (see figs. 1-3).

In regard claim 8, Lewis teaches the claimed invention as stated; wherein said post receiver 74 is selectively positionable along said elongate gable member.

In regard claim 9, Lewis teaches the claimed invention as stated; wherein each gable post support further comprises a stabilizer 112 (fig. 5) carried by a second end of the body.

In regard claim 10, Lewis teaches the claimed invention as stated, wherein further comprising a plurality of holes 90 on the second end of the body function as stabilizer receiver for adjustably receiving said elongate stabilizer member therein (see figure 5).

In regard claim 11, Lewis teaches the claimed invention as stated, wherein bolt 116 (see figure 5) functions as a transverse stabilizer connected to end of said elongate stabilizer member 112.

In regard claim 12, see rejections of claim 1 above.

In regard claim 13, see rejections of claim 2 above.

In regard claim 14, see rejections of claim 3 above.

In regard claims 15-18, see rejections of claims 6-11.

In regard claim 35, see rejections of claim 1 above.

In regard claim 36, see rejections of claim 2 above.

In regard claim 37, see rejections of claim 3 above.

In regard claim 38, see rejections of claim 4 above.

In regard claim 39, see rejections of claim 5 above.

In regard claim 40, see rejections of claim 6 above.

In regard claim 41, see rejections of claim 7 above.

In regard claim 42, see rejections of claim 8 above.

In regard claim 43, see rejections of claim 9 above.

In regard claim 44, see rejections of claim 10 above.

In regard claim 45, see rejections of claim 11 above.

Claims 15-18 are rejected under 35 U.S.C. 102(b) as being anticipated by McLaughlin et al. (US 3,995,833).

In regard claim 15, McLaughlin teaches a gable post support comprising a body 122 having a first end F (see attached figure 5), a post receiver 80a carried by said body 122, and a stabilizer 30 carried by a second end S of the body (see figures 5-6).

In regard claims 16, 17, McLaughlin teaches the claimed invention as stated, wherein said body comprises a gable plate (first end F), and an elongate gable member (second end S) extending outwardly from said gable plate.

In regard claim 18, McLaughlin teaches the claimed invention as stated, wherein said stabilizer comprises an elongate stabilizer receiver 30, and a stabilizer receiver 24 connected to said body 122 (see figure 5).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19-34, 46-51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis.

In regard method claims, Lewis teaches the claimed structural invention as stated. However, Lewis does not teach specifically the method of installing a guardrail system, which comprises post support and gable support structures, examiner considers this would have been obvious matter of setting up device because for

installing the guardrail, one would must obviously position a plurality of end post supports along a roof end pitch or where installer would be used and fastening with fasteners through holes; secure a stabilizer against the building structure, secure one end of the guardrail to the roofing member, insert posts into post receivers on the other end of the guardrail, connect rails onto the posts; Lewis would be motivated to follow these steps to facilitate assembly to have a guardrail for working on the roof safety.

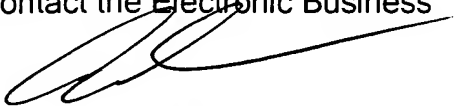
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McNamee, Digiovanni, Murray, Scott, Murray, van Herpen, Kettelkamp, Hawks, Nichols, Werner, Sweeley, Courchesne, Fears, and Brown teach guardrail system.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847, Mon-Thu (7:00-5:30), Fridays off or examiner's supervisor, Carl Friedman can be reached at (571) 272-6842. The examiner's right fax number is (571) 273-6847.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197.

CDW
9-15-05



Carl D. Friedman
Supervisory Patent Examiner
Group 3600

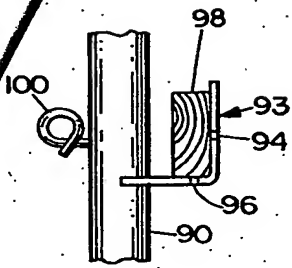


FIG. 4.

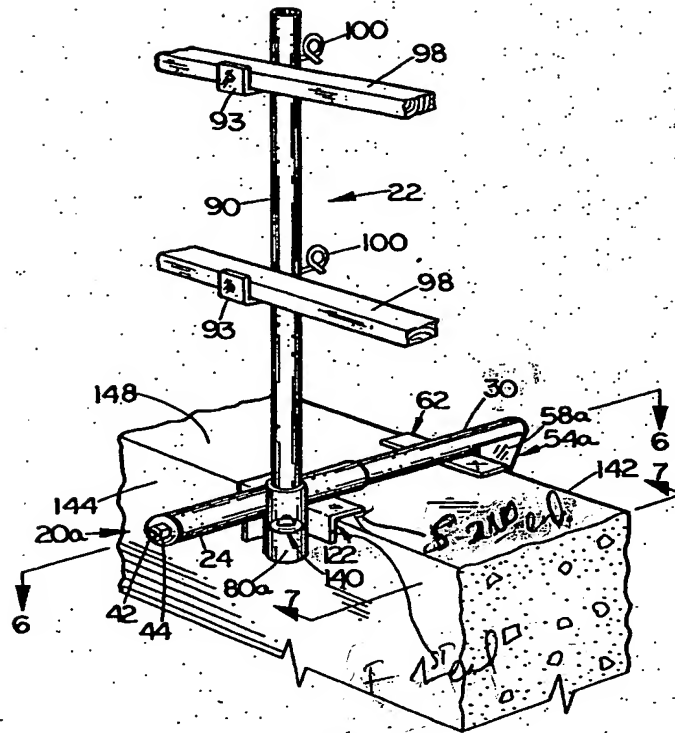


FIG. 5.

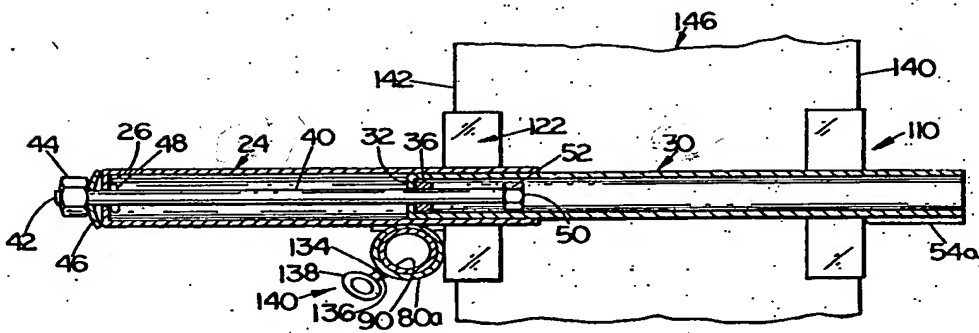


FIG. 6.

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